



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 9631-02
6 December 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Marine Corps Reserve, filed an application with this Board requesting that his record be corrected to allow him the opportunity to earn reserve retirement.

2. The Board, consisting of Mr. Carlsen, Mr. Tew and Mr. Taylor, reviewed Petitioner's allegations of error and injustice on 4 December 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. After a brief period of enlisted service, Petitioner was commissioned in the Marine Corps Reserve on 17 December 1982 and served on active duty until 15 September 1986. His anniversary year ended on 17 August 1987 and is qualifying for reserve retirement. In the next two anniversary years, he earned 29 and 15 retirement points of the 50 points required for a qualifying year. Petitioner affiliated with a reserve unit on 1 March 1990 and was subsequently credited with 47 retirement points. The next anniversary year is qualifying for reserve retirement. In the anniversary years ending 17 August 1992 and 1993, he has been

credited with 43 and 15 retirement points. Since then he has earned nine consecutive qualifying years. Therefore at the end of the anniversary years ending on 17 August 2002 he has been credited with 15 years of qualifying service.

d. Apparently because of Petitioner's nonqualifying years he has failed of selection on two occasions and his discharge from the Marine Corps Reserve is required upon completion of 20 years of commissioned service unless he is selected for continuation to reach 24 years of commissioned service. Since Petitioner will only have 15 qualifying years, he will not be eligible for continuation due to the fact that he will not be able to earn reserve retirement during the four year continuation period.

e. Petitioner is requesting in effect that the anniversary year with 47 points be made qualifying so that he will have the opportunity to be considered for continuation and to qualify for retirement. He affiliated with a reserve unit on 1 March 1990 but was not credited with any drills for that month. He believes that an error may have occurred but he has no documentation to support that belief. The Career Retirement Credit Report (CRCR) shows that he was credited with 16 paid drills, 15 membership points, and 16 days of annual training for a total of 47 retirement points. He states that he did not drill in July because he was on annual training.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action due in large part to Petitioner's excellent record and the fact that he is very close to having 16 qualifying years. Since he is only asking for the opportunity to qualify for retirement, the Board concludes that no useful purpose is served by forcing him out of the Marine Corps Reserve without the opportunity to qualify for retirement. Therefore, the Board concludes that three retirement points should be transferred from the anniversary year ending 17 August 1991 into the anniversary year ending 17 August 1990. With this change, Petitioner will have 16 years of qualifying service at the end of his anniversary year ending 17 August 2002 and will be eligible to be considered for continuation to 24 years of commissioned service.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in the number of qualifying years.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by transferring three retirement points from the anniversary year ending 17 August 1991 into the anniversary year ending 17 August 1990.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director